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P.O. Box 683
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202-616-2885 (v)
202-307-0054 (f)
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA.

Plaintiff,

V.

JEFFREY A. MARTINEZ, individually,
and as Trustee of the Martinez Family Trust;
DOLORES M. MARTINEZ, individually and
as Trustee for the Martinez Family Trust;
THE MARTINEZ FAMILY TRUST;
MARTINEZ & ASSOCIATES, INC.
(NV20041370692); MARTINEZ &
ASSOCIATES INC. (NV20181033912);
SIERRA MORTGAGE CORPORATION;
FIDELITY NATIONAL TITLE; CHASE
MORTGAGE COMPANY; JP MORGAN
CHASE BANK NATIONAL
ASSOCIATION; RHODES RANCH
ASSOCIATION; and REPUBLIC SILVER
STATE INC., DBA, REPUBLIC
SERVICES

Defendants.

Case No.: 2:19-cv-1986-GMN-DJA

UNITED STATES' MOTION TO
ALLOW DEFENDANTS
JEFFREY A. AND DOLORES
MARTINEZ (INDIVIDUALLY AND
AS TRUSTEES FOR THE
MARTINEZ FAMILY TRUST),
MARTINEZ & ASSOCIATES, INC.
(NV20041370692), AND MARTINEZ
& ASSOCIATES INC.
(NV20181033912) 30 DAYS TO
RESPOND TO THE COMPLAINT,
IF A SETTLEMENT IS NOT
REACHED.

(SEVENTH REQUEST)

The United States of America has made six requests for limited stays to facilitate settlement discussions with taxpayers Jeffrey and Dolores Martinez. The last stay will end on October 29, 2020. (See ECF No. 42 at 5). It had previously become clear that settlement would be unlikely unless the Martinezes submitted certain tax returns for themselves and their business that are not at issue in the suit, but that were delinquent. The Martinezes have now submitted the missing returns, and the government is reviewing them. Neither the Martinezes nor their businesses have answered the complaint, but, in light of the cooperation, the United States did not seek an entry of default against any of them.

The United States regrets having to seek a further extension. However, one of the two IRS employees initially assigned to the matter transferred to a new, permanent position, and the other has been serving in a temporary new assignment. As a result, it has taken longer than expected for the IRS to review the returns, assess the Martinezes' current ability to pay, and determine whether the settlement offer on the table is appropriate. The United States therefore asks that the Court allow an additional 30 days to finalize a settlement, or for the Martinezes respond to the complaint if settlement cannot be reached in that time.

MEMORANDUM OF POINTS AND AUTHORITIES

Background

This is a federal tax case. The United States seeks a judgment against taxpayers Jeffrey and Dolores Martinez, and against two corporations associated with them, for various federal tax liabilities. The United States also seeks to foreclose its tax liens against certain real property to help satisfy the judgment. The property is putatively held in a trust.

The United States also named as defendants other parties that might assert a lien or other claim against the property, pursuant to 26 U.S.C. § 7403(b) (“Action to enforce lien or to subject property to payment of tax”). That way, those parties’ claims to the property (if any) could be adjudicated if and when the Court determines that the property should be foreclosed. It is

1 common in such cases for the United States to reach stipulations with other claimants as to lien
 2 priority, to the extent they do not disclaim any interest.

3 If the matter settles without a foreclosure, the other lienholders would not need to be paid
 4 out. In any event, to date only one of the potential lienholders, the Rhodes Ranch Association,
 5 has answered the complaint. (ECF No. 4).¹ Another, Fidelity National Title, has disclaimed any
 6 interest. (See ECF No. 7). Defendants JP Morgan Chase Bank National Association and Chase
 7 Bank National Association (together, the “Chase defendants”), and the United States have
 8 reached a stipulation concerning lien priority as between them. (See ECF No. 20 (Order
 9 approving stipulation)). (The Chase defendants currently control the mortgage loan that was
 10 initially issued by defendant Sierra Mortgage Corporation). Defendant Republic Silver State Inc.
 11 has been served but has not yet appeared, and has not contacted the United States. Finally, the
 12 United States filed a notice of dismissal concerning defendants Nevada Mortgagee Assistance
 13 Company and the Cooper Castle Law firm, and the Clerk has terminated them from the case.

14 The litigation would therefore focus on the Martinezes and their business. Neither of the
 15 Martinezes, or the corporations, have appeared. The United States served the Martinezes,
 16 individually and as representatives of their business, on December 27, 2019. Their time to
 17 respond to the complaint thus expired on January 17, 2020, under Fed. R. Civ. P. 12(a)(1)(A)(i).

18 Ordinarily the United States would be moving for an entry of default and a default
 19 judgment. However, the Martinezes have reached out to the undersigned counsel, and the parties
 20 are discussing a possible settlement. The Martinezes made a formal offer and provided certain
 21 financial information that the United States had requested. However, it became clear that the
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24 ¹ The United States reached out to counsel for Rhodes Ranch by e-mail twice and by telephone,
 25 starting on October 27, 2020, to discuss this motion, but has not heard back. Though the United
 States was unable to determine its position on this particular request, Rhodes Ranch has not
 objected to stays in the past.

1 United States cannot properly evaluate the offer, including the Martinezes' ability to pay, unless
2 and until the Martinezes submit certain tax returns that were outstanding.

3 It is important that the Martinezes come into compliance with their tax reporting
4 obligations. The Martinezes have now submitted the missing returns. Their submission of the
5 missing returns is an important consideration in evaluating their settlement offer. However, the
6 Martinezes' income and current ability to pay are also important to reaching an appropriate
7 resolution. Unfortunately, one of the IRS employees initially assigned to the matter transferred
8 to another role, and the other has been serving in a different role temporarily and had limited
9 availability. As a result, it has taken longer to evaluate these issues than the undersigned
10 anticipated. Because the delay was because of IRS availability, and not any failure to cooperate
11 on the Martinezes' part, the United States did not seek a default against them during the last 30
12 day period.

13 The United States is prepared to proceed with active litigation, including seeking entries
14 of default, if the Court denies this request. However, the United States submits that allowing an
15 additional 30 days for the Martinezes to reach a settlement or answer the complaint may
16 facilitate the potential resolution of this case without need for judicial intervention, and may
17 conserve both the parties' and the Court's resources. Under the circumstances, and given the
18 Martinezes' willingness to participate in the discussions and submit missing returns, the United
19 States continues to believe that the parties' efforts are best focused on the preparation and review
20 of outstanding returns, and in exploring a resolution.

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Request for Relief

WHEREFORE, United States respectfully asks that the Court allow 30 days for the parties to reach a resolution, or for the Martinezes and their businesses to respond to the complaint if a resolution is not reached. The United States reserves the right to seek an entry of default or default judgment after 30 days if the negotiations do not resolve the matter.

Dated this 29th day of October, 2020.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ E. Carmen Ramirez
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IT IS SO ORDERED.

Dated this 29 day of October, 2020.

Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing is made this October 29, 2020, via the Court's ECF system to all current parties who have appeared electronically. In an abundance of caution, the United States is sending this motion to the persons listed below, via U.S. Mail. Due to in-office staffing limitations related to the Covid-19 pandemic, the mailing may take two business days to send.

Jeffrey Martinez
262 Cliff Valley Dr.
Las Vegas, NV 89148

Dolores Martinez
262 Cliff Valley Dr.
Las Vegas, NV 89148

/s/ E. Carmen Ramirez
E. CARMEN RAMIREZ
Trial Attorney, Tax Division
U.S. Department of Justice